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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548**

FILE: B-186478

DATE: October 1, 1976

MATTER OF: Rudolfo R. Anthony, et al. - Evacuation -  
Reimbursement for Advance Payments on  
Quarters.

- DIGEST: 1. Former civilian employees of Defense Attache Office had made advance payments on quarters rented at time of evacuation from Saigon, Vietnam. Claims for payments supported by receipts may be paid in lesser of amount claimed or living quarters allowance for period represented by receipts since Department of State Standardized Regulations, 600(120b-3) and 600(121), permit payment of quarters allowance up to 180 days where termination of lease is impossible or impracticable.
2. Claims of former civilian employees of Defense Attache Office for advance payments made on quarters rented at time of evacuation from Saigon, which are supported by payroll records indicating entitlement to living quarters allowance, may be paid since such allowance is evidence of actual incurrence of expenses. Absent evidence of amount paid by employee for rented quarters, reimbursement may be made for lesser of amount claimed or living quarters allowance, not to exceed 60 days, in view of locality practice requiring advance payment of equivalent of 2 months' rent.

This action concerns a request dated October 30, 1975 from Joe L. Harman, Director, Finance Department, Navy Regional Finance Center, Department of the Navy, for our decision as to the propriety of paying to 17 former civilian employees of the Defense Attache Office a living quarters allowance for the period during which such employees claimed that they had made unreimbursed advance payments on quarters rented by them at the time of their evacuation from Saigon, Vietnam, in April 1975.

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These claims were submitted to this Office for settlement due to the unavailability of documents and information required by sections 130 and 077 of the Department of State Standardized Regulations (Government Civilians, Foreign Areas). The records before us contain varying quanta of evidentiary support for the claimed expenses. These records are divisible into three classes, the first of which is supported by receipts for payments made. The second class contains payroll change slips (DA Form 2515), and the third class generally has no evidence other than the statement or affidavit of the claimant.

The general authority for payment of a living quarters allowance is found at section 130 of the Standardized Regulations (October 27, 1974). Authority for the payment of such an allowance upon evacuation is found at section 600(120b-3) of the Standardized Regulations (March 25, 1962), which provides that payment of a living quarters allowance shall be terminated as of the close of business on the day of the employee's departure from the post, unless it is impossible or impracticable for him to terminate his lease. By reason of section 600(121), such payments may not exceed 180 days. Section 132.5 of the Regulations requires that upon occupancy of rented quarters in the foreign area, the employee must furnish to the head of his agency an estimate of his quarters expenses and thereafter, whenever requested by the appropriate official, he must show the actual annual expenses of rent and utilities, supported by receipts or other satisfactory evidence.

In considering questions regarding the quantum of evidence which should accompany a claim against the Government, we have consistently held that all such claims must be supported by the best evidence obtainable. We are, of course, cognizant that certain situations will inevitably arise where presentation of the best evidence will be impossible, impracticable, or will place an undue burden on the agency or individual concerned and, consequently, we have exercised our discretion in establishing the quantum of evidentiary support necessary to certify a claim. We may not, in derogation of our statutory duties, sanction the payment of claims of doubtful validity due to the lack of official records or suitable corroborating evidence. However, while a settlement of a claim by this Office must be predicated if at all possible upon official records, we will, when circumstances so warrant, accept other pertinent data from which the necessary information may reasonably be reconstructed. 55 Comp. Gen. 402 (1975).

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Implementing the above principles, we have held that where the employing agency can verify that an employee is in fact entitled to a claimed payment, but is not able to verify the amount thereof, payments may be made on the basis of the most accurate estimates which can be reconstructed after consideration of all available records. 50 Corp. Gen. 767 (1971). On page 769 of that decision we stated the following regarding claims for overtime compensation:

"In further regard to evidence in support of the claims, where there is somewhat less documentation than that enumerated in your letter, we would not object to payments made on the basis of the most accurate estimates you are able to make after consideration of all available records. For example, if time and attendance records are missing for some part of the period covered by the claims but pay and leave records are available which contain information to support reasonably accurate estimates of standby duty, then such estimates are sufficient documentation for the claim; or where no signed logs can be found for the hours of standby duty in a given case, the next best evidence--duty rosters--can be used to substantiate the payment of overtime."

In another case concerning overtime compensation, the agency verified that an employee in fact performed certain overtime but could not verify how much overtime was performed by either all employees or the claimant. In such a case it was stated in letter of May 29, 1973, B-150646, B-178272, that in the absence of contrary evidence, the amount of overtime worked by all employees during a known period could be continued into the unverified period which was the subject of the claim. Compensation could then be paid to the claimant based upon the percentage of the total overtime worked by the claimant during the known period as applied to the total overtime thus estimated for the unverified period. In decision B-150646, B-178272, October 10, 1973, we affirmed the propriety of the determination of overtime payable by the method outlined in the letter of May 29, 1973.

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The issues in claims, such as those now before us, are whether the claimant is in fact entitled to the claimed payment and, if so, in what amount. Although we have sanctioned, as stated above, means of reasonably estimating the amount of payment, a claimant must generally establish his entitlement to payment by clear corroborating evidence. We are not unmindful, however, of the emergency circumstances surrounding the evacuation of Saigon in April 1975. By reason of these circumstances, the most direct evidence of payment in fact--receipts for payment--were often lost or destroyed. We note, however, that a civilian employee stationed in foreign areas is entitled to a living quarters allowance unless he is transferred, separated, living without cost in Government-furnished housing, or has ceased to pay for quarters. Standardized Regulations, section 132.4 (October 27, 1974). Since the allowance may not be paid if the employee were not incurring quarters expenses, it may reasonably be concluded here that employees who were entitled to receive a living quarters allowance at the time of their evacuation were in fact incurring quarters expenses. Accordingly, a claimant here may establish eligibility for reimbursement by direct evidence, such as a receipt for rent and deposits paid, or by official records which indicate that he was entitled to receive a living quarters allowance, such as a payroll change slip.

Regarding the amount of payment to be made, from the records before us and from the provisions of a lease presented by one of the claimants, we are satisfied that the general practice of lessors of living quarters in Saigon was to require payment of a security deposit in an amount equivalent to one month's rent and, in addition, payment of monthly rental installments in advance. It is reasonable to infer, then, that the typical claimant here made unreimbursed advance payments on rented quarters in an amount equal to the rental installments for 2 months at the time of his evacuation. Accordingly, an otherwise eligible employee may be paid the lesser of his actual claim, or the living quarters allowance for the number of days, not to exceed 60, for which the employee made rental payments. If an employee claims to have made payments exceeding 60 days, he is, in the absence of evidence of the payments, limited to the lesser of his actual expenses or the living quarters allowance for the initial 60 days.

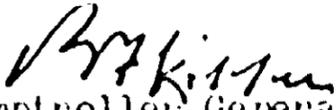
Four of the claims before us, those of Rudolfo R. Anthony, James B. McCurley, Jr., Claude J. Griffin, and Ernest P. Muniz, are supported by receipts for payments made. Since such

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receipts evidence both the fact of payment and the amount thereof, these claims are payable in the amount claimed, or the living quarters allowance for the period of time during which the expenses were incurred, whichever is the lesser. The claims of Allard G. Russell, Raymond C. Thompson, Jr., John E. Wish, Curtis H. Bryan, William C. Graves, John N. Peirce, and George O. Baker, are supported either by DA Form 2515, Payroll Change Slip indicating receipt of a living quarters allowance or by a copy of a lease in force at the time of evacuation. As noted above, such documents are sufficient evidence of entitlement in the circumstances present here, but do not establish the amount paid. Accordingly, in the absence of further evidence, such claims may be paid in the lesser of the amount claimed or the living quarters allowance for a period, not to exceed 60 days, during which such expenses were incurred. The third class of claims which consists of the claims of Billy B. Rickard, Charles R. Milliron, Glenn T. Baker, Karen A. Gasper, Ronald J. Radda, and Kenneth R. Schultz, contain no documentation other than the claimant's statement or affidavit relevant to the incurrence of expenses. Since the claimant's uncorroborated statement will not, standing alone, establish the liability of the Government, the payroll records of these claimants should be scrutinized for evidence of authorization of a living quarters allowance for the employees at the time of their evacuation. If such or other evidence is located supporting entitlement to reimbursement, payment may be made on individual claims as described above. Absent such evidence, however, the claims may not be paid.

The voucher, individual claims, and supporting materials will be returned under separate cover by our Claims Division for administrative disposition in accordance with this decision.

Deputy

  
Comptroller General  
of the United States